**HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES**
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# HOUSE RESEARCH ORGANIZATION

## daily floor report

Tuesday, May 11, 2021
87th Legislature, Number 54
The House convenes at 10 a.m.
Part Four

The bills and joint resolutions analyzed or digested in Part Four of today's *Daily Floor Report* are listed on the following page.

The House will consider a Local, Consent, and Resolutions Calendar.

Analyses of postponed bills and all bills on second reading can be found online at TLIS and at https://hro.house.texas.gov/BillAnalysis.aspx.

Alma Allen
Chairman
87(R) - 54

**HOUSE RESEARCH ORGANIZATION**

Daily Floor Report
Tuesday, May 11, 2021
87th Legislature, Number 54
Part 4

SUBJECT: Establishing a task force on patient solicitation; increasing penalties

COMMITTEE: Public Health — favorable, without amendment

VOTE: 8 ayes — Klick, Guerra, Allison, Jetton, Oliverson, Price, Smith, Zwiener

2 nays — Campos, Collier

1 absent — Coleman

WITNESSES: For —Kim Arrington, Woodlands Recovery Centers; Elizabeth Henry; (*Registered, but did not testify*: Duane Galligher, Association of Substance Abuse Programs; Sherri Layton, La Hacienda Treatment Center; Texas Association of Addiction Professionals; Matthew Lovitt, National Alliance on Mental Illness Texas)

Against — None

BACKGROUND: Health and Safety Code sec. 164.002 states that the legislative purpose of the Treatment Facilities Marketing Practices Act is to safeguard the public against fraud, deceit, and misleading marketing practices and to foster and encourage competition and fair dealing by mental health facilities and chemical dependency treatment facilities by prohibiting or restricting practices by which the public has been injured in connection with the marketing and advertising of mental health services and the admission of patients.

There have been calls to clarify and improve enforcement of laws on patient brokering with respect to substance abuse and treatment centers in the state.

DIGEST: HB 3331 would establish a task force on patient solicitation to study and make recommendations on preventing conduct that violated the Treatment Facilities Marketing Practices Act (TFMPA) or provisions of the Occupations Code prohibiting the solicitation of patients and to improve enforcement of those statutory provisions.

The task force would be composed of eight members with expertise in the field of health care or advertising, four of whom would be appointed by the executive commissioner of the Health and Human Services Commission (HHSC) and four appointed by the attorney general. The task force would be administratively attached to HHSC and its members would serve without compensation.

The attorney general and HHSC would be required to provide the task force with information requested by the task force to allow it to fulfill its duties. The information provided would be confidential and would not be subject to disclosure under state public information law.

**Report.** No later than December 1 of each even-numbered year, the task force would be required to submit to the legislature a report that included:

- a summary of civil or criminal actions brought on behalf of the state and administrative actions by state regulatory agencies in the preceding biennium for violations of TFMPA or applicable Occupations Code provisions; and
- legislative recommendations for preventing conduct that violated the TFMPA or applicable provisions of the Occupations Code, and improving their enforcement.

The bill would include solicitation or inducement through the internet to purchase the services provided by a treatment facility in the definition of "advertising" or "advertise" for the purposes of the TFMPA. The Health and Safety Code would be amended to state that the public should be able to clearly distinguish between marketing activities of a mental health or a chemical dependence treatment facility and its clinical functions.

A treatment facility or a person employed under contract with a treatment facility and acting on its behalf would be prohibited from contracting with a marketing provider who agreed to provide general referrals or leads for the placement of patients with a service provider or in a recovery residence through a call center or internet website presence, unless the terms of that contract were disclosed to the prospective patient.

The bill would establish the following as violations of the TFMPA:

- making a false or misleading statement or providing false or misleading information about the facility's services or location in the facility's advertising media or on its internet website; or
- providing a link on the facility's internet website that redirected the user to another website containing false or misleading statements or information.

The bill would increase from $1,000 to $2,000 the minimum penalty per violation of the TFMPA.

The bill also would amend the Occupations Code to change offenses related to the solicitation of patients. For the class A misdemeanor offense regarding soliciting patients, the bill would:

- expand the conduct that constituted the offense to include knowingly offering to pay or agreeing to accept, directly or indirectly, overtly or covertly any benefit or commission to or from another for securing or soliciting a patient or patronage for or from a person licensed, certified, or registered by a state health care regulatory agency;
- increase the penalty for the offense from a class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000) to a state-jail felony (180 days to two years in a state jail and an optional fine of up to $10,000);
- increase the penalty for a repeat offense or for an offender who was employed by a federal, state, or local government at the time of the offense from a third-degree felony (two to 10 years in prison and an optional fine of up to $10,000) to a second-degree felony (two to 20 years in prison and an optional fine of up to $10,000); and
- establish that provisions related to the offense do not prohibit advertising unless the advertising was prohibited under the TFMPA.

For the class A misdemeanor offense regarding failure to disclose the solicitation of patients, the bill would:

- expand the conduct that constituted the offense to include accepting a benefit, or a commission to secure or solicit a patient or patronage for a person licensed, certified, or registered by a state health care regulatory agency without disclosing that the person would receive, directly or indirectly, remuneration, a benefit, or a commission for securing or soliciting the patient;
- increase the penalty for the offense from a class A misdemeanor to a state-jail felony; and
- increase the penalty for a repeat offense or for an offender who was employed by a federal, state, or local government at the time of the offense from a third-degree felony to a second-degree felony.

For the offenses regarding the solicitation of patients as it related to the practice of the art of healing, the bill would:

- expand the conduct that constituted the offense applicable to a person practicing the art of healing with or without the use of medicine to include providing any benefit or commission to another for soliciting or securing a patient or patronage for a person who practices the art of healing with or without the use of medicine;
- expand the conduct that constituted the offense applicable to a person who accepted or agreed to accept anything or value for soliciting or securing a patient or patronage for a person who practiced the art of healing with or without the use of medicine to include accepting or agreeing to accept any benefit or commission for such acts; and
- change the punishment for the applicable offenses from a misdemeanor punishable by a fine of not less than $100 or more than $200 to a class B misdemeanor (up to 180 days in jail and/or a maximum fine of $2,000).

The bill would take effect September 1, 2021, and would apply only to an offense committed on or after the effective date.

SUBJECT: Establishing a grant program for full-service community schools

COMMITTEE: Public Education — favorable, without amendment

VOTE: 12 ayes — Dutton, Lozano, Allen, Allison, K. Bell, Bernal, Buckley, Huberty, K. King, Meza, Talarico, VanDeaver

0 nays

1 absent — M. González

WITNESSES: For — (*Registered, but did not testify*: Andrea Chevalier, Association of Texas Professional Educators; Dana Harris, Austin Chamber of Commerce; Julia Grizzard, Bexar County Education Coalition; Chloe Latham Sikes, Intercultural Development Research Association; Naomi Miller, Northside ISD in San Antonio; Charles Gaines, Raise Your Hand Texas; Leticia Van de Putte, San Antonio Chamber of Commerce; Hillary Lilly, San Antonio Independent School District; Grover Campbell, TASB; Kristin McGuire, TCASE; Katie Mitten, Texans Care for Children; Dena Donaldson, Texas AFT; Barry Haenisch, Texas Association of Community Schools; Casey McCreary, Texas Association of School Administrators; Paige Williams, Texas Classroom Teachers Association; Starlee Coleman, Texas Public Charter Schools Association; Laura Atlas Kravitz, Texas State Teachers Association; Kenneth Flippin, US Green Building Council Texas Chapter)

Against — None

On — (*Registered, but did not testify*: Eric Marin and Monica Martinez, Texas Education Agency)

BACKGROUND: The performance of students attending schools in high-poverty neighborhoods can be adversely affected by factors outside of the school environment. Interested observers contend that a grant program to implement full-service community schools could help students stay in school and succeed academically.

DIGEST:

HB 3430 would require the commissioner of education to establish a grant program for school districts and open-enrollment charter schools with campuses designated by the commissioner as full-service community schools.

The commissioner could designate a campus of a district or charter school as a full-service community school if the campus provided comprehensive academic, social, and health services for students, their family members, and community members that resulted in improved educational outcomes. Services provided by a campus could include:

- high-quality early learning programs and services;
- compensatory and remedial education services, aligned with academic supports and other enrichment activities to provide students with a comprehensive academic program;
- family engagement, including parental involvement, parental leadership, family literacy, and parent education programs;
- mentoring and other youth development programs;
- community service and service learning opportunities;
- programs that provide assistance to students who have been chronically absent, engaged in truant behavior, or been suspended or expelled;
- job training and career counseling services;
- nutrition services and physical activities;
- primary health and dental care services;
- mental health services;
- activities that improve access to and use of social service programs;
- programs that promote family financial stability; and
- adult education programs, including programs for providing instruction in English as a second language to adults.

The commissioner could solicit and accept gifts, grants, and donations from any public or private source for the grant program. The commissioner would have to adopt rules as necessary for the program as soon as practicable after the effective date of the bill.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of about $7.5 million to general revenue through fiscal 2023. The bill would make no appropriation but could provide the legal basis for an appropriation.

SUBJECT: Requiring video game coding in the technology applications curriculum

COMMITTEE: Public Education — favorable, without amendment

VOTE: 12 ayes — Dutton, Lozano, Allen, Allison, K. Bell, Bernal, Buckley, Huberty, K. King, Meza, Talarico, VanDeaver

0 nays

1 absent — M. González

WITNESSES: For — (*Registered, but did not testify*: Starlee Coleman, Texas Public Charter Schools Association; Gilbert Zavala, The Greater Austin Chamber of Commerce; Thomas Parkinson)

Against — None

On — (*Registered, but did not testify*: Eric Marin and Monica Martinez, Texas Education Agency)

BACKGROUND: Education Code sec. 28.002(c-3) requires the State Board of Education to identify the essential knowledge and skills for the technology applications curriculum for kindergarten through grade 8 that include coding, computer programming, computational thinking, and cybersecurity.

Interested parties have noted that the video game industry produces hundreds of thousands of jobs nationwide with salaries above the national average. It has been suggested that schools should offer instruction on video game coding so that students will be equipped for careers in this lucrative market.

DIGEST: HB 2769 would require the State Board of Education to adopt essential knowledge and skills that include coding for video games.

The board would be required to review and revise, as needed, the essential knowledge and skills of the technology applications curriculum by December 31, 2022.

The bill would take effect September 1, 2021.

SUBJECT: Requiring housing authority policies to comply with certain restrictions

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 8 ayes — Coleman, Stucky, Anderson, Cason, Longoria, Spiller, Stephenson, J. Turner

0 nays

1 absent — Lopez

WITNESSES: For — Laura Donahue, Best Friends Animal Society; Donna Holguin; (*Registered, but did not testify*: Sabrina Brown, American Kennel Club; Guadalupe Cuellar, City of El Paso; Jamaal Smith, City of Houston, Office of the Mayor Sylvester Turner; Nate Walker, Texas Housers; R. Clint Smith, Texas Pets Alive; Lauren Loney, The Humane Society of the United States; Gary Loney)

Against — (*Registered, but did not testify*: Michael Roth, Housing Authority of the City of Austin and TX NAHRO)

BACKGROUND: Health and Safety Code ch. 822, subch. D governs dangerous dogs. Under Health and Safety Code sec. 822.047, a county or municipality may place additional requirements or restrictions on dangerous dogs if the requirements or restrictions are not specific to one breed or several breeds of dogs and are more stringent than restrictions otherwise provided in the subchapter.

Concerns have been raised regarding the inequitable application of pet policies in public housing authorities, which currently may be inconsistent with state law and frequently vague in their breed identification policy.

DIGEST: HB 3789 would require any housing authority policy that permitted tenant ownership of a pet to comply with all applicable county or municipal restrictions on dangerous dogs under Health and Safety Code, sec. 822.047.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

SUBJECT: Changing eligibility for members of the board of directors of certain PIDs

COMMITTEE: Urban Affairs — favorable, without amendment

VOTE: 7 ayes — Cortez, Bernal, Campos, Jarvis Johnson, Minjarez, Morales Shaw, Slaton

2 nays — Holland, Gates

WITNESSES: For — Melissa Shannon, Bexar County Commissioners Court; Frank Garza, Cibolo Canyons Special Improvement District; (*Registered, but did not testify*: Trey Lary, Allen Boone Humphries Robinson LLP; Allison Greer Francis, CHCS; Jeff Coyle, City of San Antonio)

Against — None

BACKGROUND: Local Government Code sec. 382.052 establishes that if the population of a public improvement district is more than 1,000, to be eligible to serve as a director, a person must be at least 18 years old, reside in the district, and be:

- an owner of property in the district;
- an owner of stock of a corporate owner of property in the district;
- an owner of a beneficial interest in a trust that owns property in the district; or
- an agent, employee, or tenant of a person listed above.

It has been suggested that certain individuals who do not reside in a public improvement district may still have a vested interest in its operation, and should be eligible to serve on the district's board of directors.

DIGEST: HB 2726 would eliminate the requirement that in order to be eligible to serve on the board of directors of a public improvement district with a population of more than 1,000 a person must reside in the district. The bill instead would include residency in the district among the conditions that could satisfy eligibility requirements.

The bill would take effect September 1, 2021.

SUBJECT: Allowing the filing of certain automobile insurance rating plans

COMMITTEE: Insurance — committee substitute recommended

VOTE: 5 ayes — Oliverson, Hull, Middleton, Paul, Sanford

4 nays — Vo, González, Israel, Romero

WITNESSES: For — John Marlow, Chubb INA Holdings

Against — Jay Thompson, Afact; (*Registered, but did not testify*: Daniel Hodge, Al Boenker Insurance; Craig MacIntyre, Home State Insurance Group; Joe Garcia, Old American County Mutual; Connie Johnson, Progressive County Mutual; Jon (Chris) Britton, Redpoint Insurance)

On — Joe Woods, American Property and Casualty Insurance Association; (*Registered, but did not testify*: Jon Schnautz, National Association of Mutual Insurance Companies; Kenneth Lovoy, Office of Public Insurance Counsel; Luke Bellsnyder, Texas Department of Insurance)

BACKGROUND: Under Insurance Code sec. 1953.051, a rating plan regarding the writing of automobile insurance, with certain exceptions, may not assign a rate consequence to a charge or conviction for a violation of rules of the road as established under the Transportation Code or otherwise cause premiums for automobile insurance to be increased because of such a charge or conviction. It has been suggested that certain Insurance Code provisions advantage one type of insurer over another, creating an uneven playing field among competing insurers.

DIGEST: CSHB 3969 would allow an insurer writing personal or commercial automobile insurance to include in a filing any rating rule, rate variable, or rate classification that a county mutual insurance company had filed and implemented.

An insurer that filed such a rating rule, rate variable, or rate classification would be required to indicate in the rate filing that the insurer was filing

the rating rule, rate variable, or rate classification under the bill and to reflect any cost savings realized by filing that rule, variable, or classification in the insurer's filing.

The bill's provisions could not be construed to affect any law relating to the confidentiality or public disclosure of rate filings or of the department's review of rate filings.

The bill would apply only to a rate filed with the commissioner of insurance on or after the bill's effective date.

The bill would take effect September 1, 2021.

SUBJECT: Clarifying medical exam requirements for children in DFPS custody

COMMITTEE: Human Services — favorable, without amendment

VOTE: 6 ayes — Frank, Hull, Klick, Neave, Noble, Shaheen

3 nays — Hinojosa, Meza, Rose

WITNESSES: For — Julia Hatcher, Texas Association of Family Defense Attorneys; (*Registered, but did not testify*: Monica Ayres, Citizens Commission on Human Rights Texas; Mia McCord, Texas Conservative Coalition; Meagan Corser, Texas Home School Coalition; Andrew Brown, Texas Public Policy Foundation; Brandon Logan)

Against — Valerie Smith, Texas Pediatric Society; (*Registered, but did not testify*: Linda Nuno, Dem District Chair #268)

On — Stacy Wilson, Children's Hospital Association of Texas; Liz Kromrei, Department of Family and Protective Services; (*Registered, but did not testify*: Ryan Van Ramshorst, Health and Human Services Commission)

BACKGROUND: Family Code sec. 264.1076(b) requires the Department of Family and Protective Services (DFPS) to ensure that each child taken into the department's conservatorship receive an initial medical examination from an authorized physician or other health care provider by the end of the third business day after the date the child is removed from the child's home if:

- the child is removed as the result of sexual abuse, physical abuse, or an obvious physical injury; or
- if the child has a chronic medical condition, a medically complex condition, or a diagnosed mental illness.

Concerns have been raised that when implementing Family Code sec. 264.1076(b), DFPS created a manual and implementation guide that requires all children placed in department conservatorship to undergo a

medical examination, which presents an unnecessary expense and can be traumatizing for the child.

DIGEST:

HB 2983 would specify that only children described by Family Code sec. 264.1076(b) (1) and (2) may receive an initial medical examination after being taken into the conservatorship of the Department of Family and Protective Services (DFPS).

The bill also would require DFPS to submit a report by December 31, 2022, to the standing committees of the House and Senate with primary jurisdiction over child protective services and foster care that evaluated the statewide implementation of the required medical examination. The report would have to include for each region of the state:

- the level of compliance with the requirements of Family Code sec. 264.1076; and
- the number of medical examinations conducted and the reason for each examination.

The bill would apply only to a child who entered DFPS conservatorship on or after the bill's effective date.

The bill would take effect September 1, 2021.

SUBJECT: Providing informal conference with appraisal office before protest hearing

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 10 ayes — Meyer, Thierry, Button, Cole, Guerra, Martinez Fischer, Murphy, Noble, Sanford, Shine

1 nay — Rodriguez

WITNESSES: For — Cheryl Johnson, Galveston County Tax Office; (*Registered, but did not testify*: David Mintz, Texas Apartment Association; Rick Dennis, Texas Association Of Property Tax Professionals)

Against — None

On — (*Registered, but did not testify*: Korry Castillo, Comptroller of Public Accounts)

BACKGROUND: Interested individuals have recommended standardizing the current practices of many appraisal districts by requiring districts to provide informal conferences for property owners before a protest hearing. Some suggest such informal meetings have resulted in high percentages of settlements, eliminating the need for formal appraisal review board hearings.

DIGEST: HB 4179 would require an appraisal review board (ARB) to schedule an informal conference with the appraisal office for each property owner who filed a notice of protest, to be held before the hearing on the protest. Notice of the date, time, and location of the conference would have to be delivered to the property owner with the requisite notice of protest hearing.

The conference could not be scheduled on the same date as the hearing on the protest or during the five days before that date, except as otherwise allowed.

The appraisal office would have to reschedule the conference for a later date on the written request of the property owner with good cause shown. The rescheduling would not require the delivery of additional written notice. The conference could be rescheduled for a date during the five-day period before the hearing on the protest with the property owner's consent.

The appraisal office would have to cancel the informal conference if the property owner informed the office in writing that the owner elected not to participate. The property owner's failure to appear at the conference would not prevent the ARB from hearing the protest and issuing an order determining the protest.

The bill would remove a condition under current law requiring an ARB to conduct a hearing on a protest by telephone conference if the ARB proposed the hearing to be conducted by that method and the property owner agreed.

The bill would take effect September 1, 2021, and apply only to a protest for which a notice of protest was filed on or after that date.

SUBJECT: Requiring a review of career and technology courses in public schools

COMMITTEE: Public Education — committee substitute recommended

VOTE: 11 ayes — Dutton, Lozano, Allen, Allison, K. Bell, Bernal, Buckley, M. González, Huberty, Meza, Talarico

2 nays — K. King, VanDeaver

WITNESSES: For — (*Registered, but did not testify*: C.J. Tredway, Independent Electrical Contractors of Texas; Valerie DeBill, League of Women Voters of Texas; J.D. Hale, Texas Association of Builders; Gilbert Zavala, The Greater Austin Chamber of Commerce; Aldo D'Aversa)

Against — (*Registered, but did not testify*: Andrea Chevalier, Association of Texas Professional Educators; Paige Williams, Texas Classroom Teachers Association; Carrie Griffith, Texas State Teachers Association)

On — (*Registered, but did not testify*: Eric Marin and Monica Martinez, Texas Education Agency)

BACKGROUND: Interested parties have called for the State Board of Education to consider relevant economic and market conditions affecting the Texas workforce when reviewing career and technology courses required as part of the essential knowledge and skills curriculum in public schools.

DIGEST: CSHB 4525 would require the State Board of Education, in approving career and technology courses, to consider relevant economic and market conditions affecting the state workforce when scheduling or initiating a course review to provide updated and relevant course offerings.

The bill would apply beginning with the 2021-2022 school year.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

SUBJECT: Providing preparation for teaching bilingual education, ESL, or Spanish

COMMITTEE: Public Education — favorable, without amendment

VOTE: 7 ayes — Dutton, Lozano, Allen, Allison, Bernal, Meza, Talarico

5 nays — K. Bell, Buckley, Huberty, K. King, VanDeaver

1 absent — M. González

WITNESSES: For — Chloe Latham Sikes, Intercultural Development Research Association; (*Registered, but did not testify*: Andrea Chevalier, Association of Texas Professional Educators; Julia Grizzard, Bexar County Education Coalition; Jennifer Toon, Coalition of Texans with Disabilities; Chandra Villanueva, Every Texan; Vanessa Beltran, Girls Empowerment Network; Eddie Conger, ILTexas Public Charter Schools; Valerie DeBill, League of Women Voters of Texas; Fatima Menendez, Mexican American Legal Defense and Educational Fund; Naomi Miller, Northside ISD; Hillary Lilly, San Antonio ISD; Jesus H. Chavez, South Texas Association of Schools; Grover Campbell, TASB; David Feigen, Texans Care for Children; Dena Donaldson, Texas American Federation of Teachers; Barry Haenisch, Texas Association of Community Schools; Amy Beneski, Texas Association of School Administrators; Mark Terry, Texas Elementary Principals and Supervisors Association; Carrie Griffith, Texas State Teachers Association; Ana Ramon, Texas Legislative Education Equity Coalition; Ashley Harris, United Ways of Texas; Ramiro Canales; Susana Carranza; Thomas Parkinson; Heather Sheffield)

Against — None

On — (*Registered, but did not testify*: Eric Marin, Monica Martinez, and Justin Porter, Texas Education Agency)

BACKGROUND: Interested parties have noted that while many Texas students are designated as English learners, there is a shortage of qualified bilingual educators across the state, especially in rural areas. There have been calls

to identify promising high school students and incentivize them to become bilingual teachers to address this shortage.

DIGEST:

HB 1744 would create a program to provide financial incentives for individuals seeking certification and employment to teach bilingual education, English as a second language (ESL), or Spanish. The bill also would require the Texas Education Agency (TEA) to develop a program of study for these fields.

**Financial incentive program.** HB 1744 would require the Texas Higher Education Coordinating Board (THECB) to establish a program to provide financial incentives such as tuition assistance or student loan repayment to:

- assist persons in obtaining certification to teach bilingual education, ESL, or Spanish in a public elementary or secondary school in the state; and
- facilitate the employment of those persons by a school in this state that had a shortage of teachers certified to teach in those fields.

The financial incentives could be awarded to each participant in the program to assist with the cost of payment of mandatory tuition and fees for courses required to obtain certification to teach in the specified fields. In administering the program, THECB would have to give priority to awarding financial incentives to eligible persons who demonstrated the greatest financial need.

To be eligible to receive financial incentives under the bill, a person would have to:

- apply to the THECB as prescribed by board rule;
- be admitted into an educator preparation program at a higher education institution that prepared students for certification to teach bilingual education, ESL, or Spanish;
- enter into an agreement with the board; and
- satisfy any other criteria jointly prescribed by the THECB and the State Board for Educator Certification.

To qualify for financial incentives under the program, a person would have to enter into a written agreement with THECB that would require the person to:

- obtain certification to teach bilingual education, ESL, or Spanish in a public elementary or secondary school in this state within the period specified by the board;
- accept an offer of full-time employment to teach bilingual education, ESL, or Spanish in a public elementary or secondary school in the state that had a shortage of teachers certified to teach in one or more of those fields during the first school year that began after the date the person became certified; and
- teach in one or more of those fields at that school for at least two school years.

A program participant who failed to meet the qualifying requirements of the bill would have to reimburse THECB for any assistance received. THECB would be required to establish exceptions to the reimbursement requirement for participants who were unable to meet the qualifying requirements as a result of unusual hardship.

In addition to money appropriated by the Legislature, THECB could solicit and accept gifts, grants, and donations for the purposes of the bill. The board would be required to adopt rules necessary for the administration of the program, including a rule that set the maximum amount of financial assistance that a person could receive in one year. Rules would have to be adopted as soon as practicable after the bill had taken effect.

**Program of study.** HB 1744 would require TEA to develop a program of study for use in career and technology education programs that would prepare and assist students in pursuing a career teaching bilingual education, ESL, or Spanish.

The agency would have to post on its website information regarding the program of study and the financial incentive program administered by the

THECB as established under the bill. TEA would have to develop the program of study beginning no later than the 2022-2023 school year.

**Required information for high school students.** The bill would require the information provided annually to high school students by a school counselor under current law to include information on the availability of programs that prepared students for teaching bilingual education, ESL, and Spanish, including the TEA program of study and the THECB financial incentive program. This requirement would apply beginning with the 2022-2023 school year.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

NOTES:

According to the Legislative Budget Board, HB 1744 would have a negative impact to general revenue of about $6.9 million through the biennium ending August 31, 2023. The THECB indicates that the costs related to providing financial incentives under the bill's provisions cannot be estimated because the number of individuals who would qualify for participation and fulfill the requirements of the program is unknown.

SUBJECT: Requiring TDCJ to install air conditioning systems in its facilities

COMMITTEE: Corrections — committee substitute recommended

VOTE: 8 ayes — Murr, Allen, Bailes, Martinez Fischer, Rodriguez, Sherman, Slaton, White

0 nays

1 absent — Burrows

WITNESSES: For — Lauren Johnson, ACLU of Texas; Jorge Renaud, Latino Justice; Karen Munoz, LatinoJustice PRLDEF; Lovinah Igbani, Texas Coalition of Black Democrats; Shruti Patil, Texas Criminal Justice Coalition; Amite Dominick, Texas Prisons Air Conditioning Advocates; Steven Price, The VOICES of Our Veterans; Charlie Malouff; Becky Morris; Carlee Purdum; Charles Roberts; Martha Torres; (*Registered, but did not testify*: Susana Carranza, League of Women Voter of Texas; Maggie Luna, Statewide Leadership Council; Amelia Casas, Texas Fair Defense Project; Thomas Parkinson)

Against — None

On — (*Registered, but did not testify*: Cody Ginsel, Ron Steffa, Bryan Collier, and Bobby Lumpkin, Texas Department of Criminal Justice)

BACKGROUND: Concerns have been raised that the temperature requirements for local and county jails do not apply to state prison and jail facilities and that Texas' regularly hot summer weather has resulted in illness and death for inmates and employees of the state's criminal justice system. Some have called for the Legislature to require the Texas Department of Criminal Justice to install air conditioning in all its facilities to address this problem.

DIGEST: CSHB 1971 would require the Texas Department of Criminal Justice (TDCJ) to contract with a private entity through a competitive bidding process to purchase and install climate control systems at each facility operated by the department not currently equipped with a climate control

system capable of maintaining the temperature in required temperature-controlled areas of the facility between 65 and 85 degrees Fahrenheit.

The bill would define a "required temperature-controlled area" as the following areas of a facility operated by the department: hospitals; visiting areas; housing or dormitory areas; trustee areas; areas used for medical treatment or care, including areas used for dispensing medication to inmates; kitchens or dining areas; food preparation areas; community areas, including dayrooms; laundry areas; areas used for work stations; indoor recreational areas, including gymnasiums; restroom and shower areas and other areas related to inmate hygiene; administrative areas; correctional officer stations, including guard post areas; commissary areas; areas used for programmatic, educational, or vocational purposes; chapels or churches; libraries; and maintenance areas.

TDCJ would have to install the climate control systems in the following phases, with each phase consisting of the installation of systems at approximately one-third of the department's facilities at a cost not to exceed $100 million per phase:

- phase one to be completed by December 31, 2024;
- phase two to be completed by December 31, 2026; and
- phase three to be completed by December 31, 2028.

In conducting the competitive bidding process, the department would have to solicit bids for the entire scope of the project, provided that the department could solicit bids for each phase of the project if necessary or beneficial. In soliciting bids and determining the requirements for the phased implementation of the project, TDCJ would have to prioritize the efficient use of state resources and consider factors such as:

- the type of climate control systems needed for each facility, including the architectural design of each facility;
- the ability of any existing climate control systems in each facility to maintain the air temperature in the required temperature-controlled areas of the facility within the required temperature range;

- the comparable abilities of different climate control systems to maintain the temperature within the required temperature range, including the total cellblock or dormitory square footage each system was capable of maintaining at that temperature; and
- the use of inmate labor to decrease costs.

TDCJ would have to implement a provision of the bill only if the Legislature allocated available federal funds specifically for that purpose or appropriated state funds to the department for the purpose of implementing a provision of the bill. The department could not otherwise implement a provision of the bill using state funds.

The bill's provisions would expire January 1, 2031.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of about $286.4 million in all funds through fiscal 2028.

SUBJECT: Penalties for violating civil rights, sexual activity with persons in custody

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Collier, K. Bell, Cason, Cook, Crockett, Hinojosa, A. Johnson, Murr, Vasut

0 nays

WITNESSES: For — Brian Middleton, Fort Bend County District Attorney's Office; Laura Nodolf, Midland County District Attorney's Office; (*Registered, but did not testify*: M. Paige Williams, for Dallas County Criminal District Attorney John Creuzot; Tom Maddox, Sheriffs Association of Texas; Katherine Strandberg, Texas Association Against Sexual Assault; Rachana Chhin, Texas Catholic Conference; Thomas Parkinson)

Against — None

BACKGROUND: Penal Code sec. 39.04(a)(2) makes it an offense to violate the civil rights of a person in custody and for improper sexual activity with a person in custody.

It is an offense to deny or impede a person in custody in the exercise or enjoyment of any right, privilege, or immunity knowing his conduct is unlawful. Offenses are class A misdemeanors (up to one year in jail and/or a maximum fine of $4,000).

It also is an offense to engage in improper sexual activity with an individual in custody. These offenses are state-jail felonies (180 days to two years in a state jail and an optional fine of up to $10,000) unless committed against an individual in the Texas Juvenile Justice Department or a juvenile in a correctional facility, in which case it is a second-degree felony (two to 20 years in prison and an optional fine of up to $10,000).

Concerns have been raised that the current penalties associated with violating the civil rights of a person in custody and for improper sexual

activity with a person in custody do not reflect the seriousness of the crimes.

DIGEST:

HB 3157 would increase the penalties for violating the civil rights of a person in custody and for improper sexual activity with a person in custody.

Offenses involving violating the civil rights of a person in custody would be increased to a third-degree felony (two to 10 years in prison and an optional fine of up to $10,000). For these offenses, the bill would remove the condition of having to know that conduct was unlawful.

Offenses involving improper sexual activity with someone in custody would be increased to second-degree felonies, with those committed against an individual in the Texas Juvenile Justice Department or a juvenile in a correctional facility being raised to a first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to $10,000).

The bill would take effect September 1, 2021, and would apply to offenses committed on or after that date.

SUBJECT: Authorizing certain joint graduate degree programs within the UT System

COMMITTEE: Higher Education — committee substitute recommended

VOTE: 10 ayes — Murphy, Pacheco, Cortez, Frullo, Muñoz, Ortega, Parker, Raney, C. Turner, J. Turner

0 nays

1 absent — P. King

WITNESSES: For — (*Registered, but did not testify*: Georgia Keysor)

Against — None

On — Ernest Hawk, UT MD Anderson Cancer Center; Eric Boerwinkle, UTHealth Houston

BACKGROUND: Education Code sec. 73.102 states that if the Texas Higher Education Coordinating Board determines that the role of The University of Texas M.D. Anderson Cancer Center should be changed to include degree-granting authority, The University of Texas System board of regents may:

- prescribe courses and conduct allied health professional degree programs related to the purposes of the institution; and
- jointly prescribe courses and jointly conduct graduate programs at the master's and doctoral levels with The University of Texas Health Science Center at Houston Graduate School of Biomedical Sciences.

Degree programs offered under these provisions are subject to approval by the Texas Higher Education Coordinating Board.

Some have called for the authorized partnership between The University of Texas M.D. Anderson Cancer Center and The University of Texas Health Science Center at Houston to be expanded to allow them to jointly offer degree programs in the fields of population and public health.

DIGEST:

CSHB 1457 would allow The University of Texas System board of regents to prescribe courses and conduct certain graduate programs at The University of Texas M.D. Anderson Cancer Center jointly with The University of Texas Health Science Center at Houston, with respect to graduate programs separately established at the health science center and related to the broad fields encompassed in population and public health.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

SUBJECT: Creating an offense for a false statement to illegally acquire a firearm

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 8 ayes — Collier, K. Bell, Cook, Crockett, Hinojosa, A. Johnson, Murr, Vasut

1 nay — Cason

WITNESSES: For — (*Registered, but did not testify*: Jennifer Szimanski, Combined Law Enforcement Associations of Texas; M. Paige Williams, for Dallas County Criminal District Attorney John Creuzot; David Sinclair, Game Warden Peace Officers Association; Jimmy Rodriguez, San Antonio Police Officers Association; Tom Maddox, Sheriffs Association of Texas; Lindy Borchardt, for Tarrant County Criminal District Attorney Sharen Wilson; Gyl Switzer, Texas Gun Sense; Dan Finch, Texas Medical Association; Julie Wheeler, Travis County Commissioners Court; Thomas Parkinson)

Against — None

On — (*Registered, but did not testify*: Shannon Edmonds, Texas District and County Attorneys Association)

BACKGROUND: Penal Code sec. 46.06 establishes an offense for the unlawful transfer of certain weapons.

While state law limits the persons to whom a seller of a firearm may legally provide a firearm, some contend that stronger criminal penalties are needed to deter unfit individuals from seeking to acquire a firearm in the first place.

DIGEST: CSHB 347 would make it an offense for a person prohibited from possessing a weapon under state or federal law to knowingly make a material false statement on a form that was:

- required by state or federal law for the purchase, sale, or other transfer of a firearm; and
- submitted to a licensed firearms dealer, as defined by federal law.

The offense would be a state-jail felony (180 days to two years in a state jail and an optional fine of up to $10,000).

The bill would take effect September 1, 2021, and would apply only to an offense committed on or after that date.

SUBJECT: Requiring officers to keep body cameras on while active in investigations

COMMITTEE: Homeland Security and Public Safety — committee substitute recommended

VOTE: 6 ayes — White, Bowers, Goodwin, Harless, E. Morales, Patterson

3 nays — Hefner, Schaefer, Tinderholt

WITNESSES: For — Douglas Gladden and Jason Hermus, Dallas County Criminal District Attorney's Office; Sammie Berry, Dallas West Church of Christ; Daniel Keeling, Texas Council of Alpha Chapters; Dominique Walker, The Afiya Center; Charles D. Hatield Jr., The Ellis County Oress; and six individuals; (*Registered, but did not testify*: Bryan Mitchell, Dallas County Criminal District Attorney; Ben Stratmann, Dallas Regional Chamber; Julie Gilberg; Linda Guy; Georgia Keysor; Gentry McClean; Vunderink)

Against — Felisha Bull, Gun Owners of America; Tara Mica, National Rifle Association; Kevin Lawrence, Texas Municipal Police Association; Kyle Guarco; Emily Taylor; (*Registered, but did not testify*: Jennifer Szimanski, CLEAT; Frederick Frazier, Dallas Police Association FOP 716, Legislative director State FOP; James Parnell, Dallas Police Association; Jimmy Rodriguez, San Antonio Police Officers Association; Andi Turner, Texas State Rifle Association; and 16 individuals)

On — Jessica Anderson, Houston Police Department; Kathy Mitchell, Just Liberty; Skylor Hearn and Brian Hawthorne, Sheriffs' Association of Texas; Brad Hodges; (*Registered, but did not testify*: James Smith, San Antonio Police Department)

BACKGROUND: Occupations Code sec. 1701.655 requires a law enforcement agency that receives a grant to provide body worn cameras to its peace officers or that otherwise operates a body worn camera program to adopt a policy for the use of body worn cameras.

A policy has to ensure that a body worn camera is activated only for a law enforcement purpose and must include certain guidelines and provisions as provided under law.

Sec. 1701.657 allows a peace officer to choose not to activate a camera or to discontinue a recording currently in progress for any nonconfrontational encounter with a person, including an interview of a witness or victim.

Concerns have been raised about peace officers discontinuing their use of their body worn cameras while engaging in an investigation. This action leaves the officer's employing agency, prosecutors, defense attorneys, and courts without any objective evidence regarding whether the officer's actions were justified, especially if there were any confrontational interactions. Some have suggested addressing this issue by requiring officers to keep body worn cameras activated for the entirety of their active participation in an investigation.

DIGEST:

CSHB 929 would require a policy for the use of body worn cameras adopted by a law enforcement agency to include provisions relating to the collection of a body worn camera as evidence, including applicable recorded video and audio. The bill would be known as the Botham Jean Act.

A policy for the use of body worn cameras also would have to require a peace officer who was equipped with a body worn camera and actively participating in an investigation to keep the camera activated for the entirety of the officer's participation in the investigation, unless the camera had been deactivated in compliance with that policy.

The bill would revise the circumstances under which a peace officer could choose not to activate a body worn camera or discontinue a recording in progress and allow an officer to take such action only for any encounter with a person that was not related to an investigation.

The bill would take effect September 1, 2021.

SUBJECT: Prohibiting death penalty for crimes by person with severe mental illness

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Collier, Cason, Crockett, Hinojosa, A. Johnson, Vasut

1 nay — Cook

2 absent — K. Bell, Murr

WITNESSES: For —Jennifer Toon, Coalition of Texans with Disabilities; Brenda Richardson Rowe, Concord Church/Harmony CDC; Matthew Lovitt, National Alliance on Mental Illness Texas; Alison Mohr Boleware, National Association of Social Workers-Texas Chapter; Kimberly Harrison, Texas Psychological Association; Jennifer Allmon, The Texas Catholic Conference of Bishops; Amanda Marzullo; (*Registered, but did not testify*: Nick Hudson, American Civil Liberties Union of Texas; Chas Moore, Austin Justice Coalition; Kathy Mitchell, Just Liberty; Rene Perez, Libertarian Party of Texas; Myra Leo, Methodist Healthcare Ministries; Jeff LeBlanc, Republican Liberty Caucus of Texas; Maggie Luna, Statewide Leadership Council; Shea Place, Texas Criminal Defense Lawyers Association; Sarah Reyes, Texas Criminal Justice Coalition; Amelia Casas, Texas Fair Defense Project; Joshua Houston, Texas Impact; Alex Cogan, The Arc of Texas; and six individuals)

Against — Chris Gatewood, Smith County District Attorney's Office; (*Registered, but did not testify*: James Parnell, Dallas Police Association; David Sinclair, Game Warden Peace Officers Association; Ray Hunt, HPOU; Lindy Borchardt, for Sharen Wilson-Tarrant County Criminal District Attorney; John Wilkerson, Texas Municipal Police Association)

On — Ben Wolff, Office of Capital and Forensic Writs

BACKGROUND: Penal Code sec. 12.31 establishes the penalties for capital felonies. In capital murder cases in which the state seeks the death penalty, individuals found guilty must be sentenced to death or life in prison without parole in the Texas Department of Criminal Justice. In capital murder cases in

which the state does not seek the death penalty, those found guilty must be sentenced to life without parole.

Concerns have been raised about imposing the death penalty on individuals with severe mental illness who have a diminished capacity to appreciate the consequences and wrongfulness of their actions and to participate in their defense.

DIGEST:

HB 140 would prohibit death sentences for capital murder defendants who were determined under the criteria in the bill to be a person with severe mental illness at the time of the offense. If found guilty of capital murder, these defendants would have to be sentenced to life in prison without parole.

The bill would define "person with severe mental illness" to mean a person who had schizophrenia, a schizoaffective disorder, or a bipolar disorder and, as a result of that disorder, had active psychotic symptoms that substantially impaired the person's capacity to appreciate the nature, consequences, or wrongfulness of the person's conduct or to exercise rational judgment in relation to the person's conduct.

**Notice of intent to raise issue.** A defendant planning to offer evidence that the defendant was a person with severe mental illness at the time of the alleged offense would have to file a notice with the court at least 30 days before a trial. The notice would have to tell the court that the defendant intended to offer the evidence and certify that a copy of the notice had been given to the prosecutor in the case.

Unless timely notice was given, evidence that the defendant was a person with severe mental illness at the time of the commission of the alleged offense would not be admissible at the guilt or innocence stage of the trial unless the court found that good cause existed for failing to give notice

**Jury determination.** The issue of whether the defendant was a person with severe mental illness at the time of the commission of the alleged offense would be submitted to the jury only if the issue was supported by evidence. The jury would have to decide the issue and return a special

verdict on the issue that was separate from the jury's verdict on guilt or innocence. A defendant would have to prove by clear and convincing evidence that the defendant was a person with severe mental illness at the time of the commission of the alleged offense.

**Appointment of expert.** On the request of either party or on the judge's own motion, the judge would have to appoint a disinterested expert experienced and qualified in the field of diagnosing mental illness to examine the defendant and determine whether the defendant was a person with severe mental illness.

The judge could order the defendant to submit to an exam by the expert. Exams would have to be narrowly tailored to determine whether the defendant had the specific disorder claimed and could not include an assessment of the risk of danger the defendant could pose to any person. Appointed experts would have to provide the defense attorney and the prosecutor all notes and data from the exam. Statements made by the defendant during an exam could not be admitted into evidence during the trial.

**Effect of determination.** If the jury determined that the defendant was not a person with severe mental illness at the time of the commission of an alleged offense and the defendant was convicted of that offense, the judge would have to conduct a sentencing proceeding under the standard procedures used in capital cases. At that proceeding, defendants could present evidence of a mental disability as allowed under those standard procedures.

The bill would take effect September 1, 2021, and would apply only to a trial that commenced on or after that date.

SUBJECT: Terminating certain businesses that caused an environmental disaster

COMMITTEE: Environmental Regulation — favorable, without amendment

VOTE: 6 ayes — Landgraf, Dominguez, Dean, Goodwin, Morales Shaw, Reynolds

3 nays — Kacal, Kuempel, Morrison

WITNESSES: For — Leticia Ablaza, Air Alliance Houston; Cyrus Reed, Lone Star Chapter Sierra Club; Adrian Shelley, Public Citizen; Marsha Jackson; Jana Pellusch; (*Registered, but did not testify*: Jamaal Smith, City of Houston, Office of the Mayor Sylvester Turner; Julie Campbell)

Against — Mark Vickery, Texas Association of Manufacturers; Sam Gammage, Texas Chemical Council; Bryan Shaw, Texas Oil and Gas Association; (*Registered, but did not testify*: JP Urban, AECT; Steven Albright, Associated General Contractors of Texas Highway Heavy Utility and Industrial Branch; Martha Landwehr, BASF; Buddy Garcia, LafargeHolcim; Michael Lozano, Permian Basin Petroleum Association; Ryan Paylor, Texas Independent Producers & Royalty Owners Association; Ches Blevins, Texas Mining and Reclamation Association)

On — Craig Pritzlaff, Texas Commission on Environmental Quality; (*Registered, but did not testify*: Sabine Lange, Texas Commission on Environmental Quality)

BACKGROUND: Certain parties have raised concerns about businesses in Texas causing environmental disasters. Some suggest terminating such businesses to prevent them from operating until the disaster was remedied.

DIGEST: HB 3477 would require the Texas Commission on Environmental Quality (TCEQ) to adopt rules to establish criteria for determining whether a filing entity that was subject to an enforcement action was responsible for an environmental disaster in the state.

An "environmental disaster" would mean a violation of law under the jurisdiction of TCEQ resulting in significant harm to human life. A "filing entity" would mean a domestic entity that was a corporation, limited partnership, limited liability company, professional association, cooperative, or real estate investment trust.

In adopting the rules, TCEQ would have to consider whether a violation caused:

- an increase in fatal diseases, including cancer, in the population near the facility where the violation occurred;
- contaminated water or air; or
- a negative effect on the quality of life of the population near the facility.

If TCEQ determined that a filing entity was responsible for an environmental disaster, TCEQ would have to issue an order for the termination of the filing entity. The secretary of state could terminate a filing entity's existence if it had been issued an order of termination.

The order would have to include a provision for how the entity could meet requirements for reinstatement through the remediation of the environmental disaster.

A filing entity that received a termination order could file with TCEQ evidence showing that it had met the remediation requirements. If TCEQ determined that the entity had met the requirements, TCEQ would have to issue an order for reinstatement. The secretary of state could reinstate a filing entity that had been issued an order of reinstatement.

The bill would take effect September 1, 2021, and apply only to a violation committed on or after that date.